



## **DEPARTMENT OF HOMELAND SECURITY**

### **U.S. Immigration and Customs Enforcement**

#### **8 CFR Parts 214, 248 and 274a.12**

**[DHS Docket No. ICEB-2019-0006]**

**RIN 1653-AA78**

### **Establishing a Fixed Time Period of Admission and an Extension of Stay Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media**

**AGENCY:** U.S. Immigration and Customs Enforcement, DHS.

**ACTION:** Notice of proposed rulemaking; withdrawal.

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**SUMMARY:** The U.S. Department of Homeland Security (DHS) is withdrawing a notice of proposed rulemaking (NPRM) that published on September 25, 2020. The NPRM proposed to revise DHS regulations governing the length of stay for F, J, and certain I nonimmigrants.

**DATES:** DHS withdraws the NPRM at 85 FR 60526 as of [INSERT DATE OF PUBLICATION IN THE FEDERAL REGISTER].

**ADDRESSES:** The docket for this withdrawn proposed rule is available at <http://www.regulations.gov>. Please search for docket number ICEB-2019-0006.

**FOR FURTHER INFORMATION CONTACT:** Sharon Hageman, Regulations Unit Chief, Office of Policy and Planning, U.S. Immigration and Customs Enforcement, Department of Homeland Security, 500 12<sup>th</sup> Street SW, Washington, DC 20536. Telephone 202-732-6960 (not a toll-free number).

**SUPPLEMENTARY INFORMATION:** On September 25, 2020, DHS published an NPRM titled, “Establishing a Fixed Time Period of Admission and an Extension of Stay

Procedure for Nonimmigrant Academic Students, Exchange Visitors, and Representatives of Foreign Information Media” (85 FR 60526). The NPRM proposed to eliminate the duration of status admission period for F, J and certain I nonimmigrants and replace it with a fixed time period. Nonimmigrants seeking to remain in the United States beyond their fixed period of admission would have been required to apply for an extension of stay directly with U.S. Citizenship and Immigration Services or to depart the country and apply for admission with U.S. Customs and Border Protection at a port of entry.

In response to the NPRM, DHS received more than 32,000 comments during the 30-day public comment period. More than 99 percent of commenters opposed the proposed rule with many commenters specifically requesting that DHS withdraw the NPRM.<sup>1</sup> Less than 1 percent expressed support for the proposed rule with such commenters generally supporting the proposed rule because they believed it would deter illegal immigration, protect U.S. workers, and stop espionage. The commenters who opposed the NPRM argued that it discriminates against certain groups of people based on their nationality. They also argued that it would significantly burden the foreign students, exchange scholars, foreign media representatives, and U.S. employers by requiring extension of stays in order to continue with their programs of study or work.

Commenters additionally noted the proposed rule would impose exorbitant costs and burdens on foreign students, scholars, and media representatives due to the direct cost of the extension of stay application fee, as well as the lost opportunity cost of not being able to begin their work on time if the extension were not adjudicated by the government in a timely fashion. Commenters argued U.S. employers would be similarly burdened by the proposed changes because many noncitizens may not be able to apply for an extension of stay or have it approved in a timely fashion, thereby delaying the possible start dates of

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<sup>1</sup> Comments may be viewed at the Federal Docket Management System (FDMS) at <http://www.regulations.gov>, docket number USCIS-2019-0006.

employees and/or cause them to lose potential job candidates. Finally, commenters suggested that the breadth of the changes in the proposed rule are more than what is necessary to protect the integrity of nonimmigrant programs.

On February 2, 2021, President Biden issued Executive Order 14012, “Restoring Faith in Our Legal Immigration Systems and Strengthening Integration and Inclusion Efforts for New Americans.” Section 3(a)(i), instructs the Secretary of Homeland Security to identify barriers that impede access to immigration benefits. 86 FR 8277, (Feb. 5, 2021). (“EO 14012”). Having reviewed the public comments received in response to the NPRM in light of Executive Order 14012, DHS believes some of the comments may be justified and is concerned that the changes proposed unnecessarily impede access to immigration benefits. DHS still supports the goals of the NPRM to protect the integrity of programs that admit nonimmigrants in the F, J, and I classifications but not in a way that conflicts with Executive Order 14012. Accordingly, we are withdrawing the NPRM and will analyze the entirety of the NPRM in the context of the directive in EO 14012 to determine what changes may be appropriate and consistent with DHS’s needs, policies, and applicable law. As such, DHS may engage in a future rulemaking to protect the integrity of programs that admit nonimmigrants in the F, J, and I classifications in a manner consistent with Executive Order 14012.

**Authority:** As stated in the NPRM, DHS has general and specific statutory authority to regulate the admission of nonimmigrants. 8 U.S.C. 1103, 1184(a); 85 FR 60526. DHS is withdrawing the NPRM using those same authorities.

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Alejandro N. Mayorkas,  
Secretary,  
U.S. Department of Homeland Security.

